

Message Text

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FM AMEMBASSY KUALA LUMPUR

TO SECSTATE WASHDC 9046

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SECRETARY OF THE ARMY WASHDC

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STATE FOR EA/IMS AND LEGAL ADVISER

DEPT OF ARMY FOR SURGEON-GENERAL (TSG) AND COMMANDER,
MEDICAL RESEARCH AND DEVELOPMENT COMMAND

E.O. 11652: N/A

TAGS: PFOR, TBIO, MY, US

SUBJ: MEDICAL RESEARCH UNIT AGREEMENT

1. SUMMARY: THIS TELEGRAM CONTAINS EMBASSY/USAMRU COMMENTS ON DRAFT AGREEMENT WITH GOM HEALTH MINISTRY TO REGULARIZE STATUS OF US ARMY MEDICAL RESEARCH UNIT (USAMRU). EMBASSY/USAMRU RECOMMENDATION IS THAT DRAFT AGREEMENT BE APPROVED BY DEPARTMENT AND APPROPRIATE AGENCIES. ACTION REQUESTED: AUTHORITY FOR AMBASSADOR TO SIGN AND EXCHANGE NOTES WITH MINISTER OF HEALTH FORMALIZING STATUS OF USAMRU PER TEXT SUBMITTED SEPTEL. END SUMMARY.

2. TEXT OF DRAFT AGREEMENT TO REGULARIZE STATUS OF US ARMY MEDICAL RESEARCH UNIT (USAMRU) PREPARED BY GOM IS BEING SUBMITTED TO DEPT AND INTERESTED AGENCIES SEPTEL. OVERALL, THIS AGREEMENT IS HIGHLY ADVANTAGEOUS TO USG AND USAMRU IN THAT EXISTING UNDERSTANDINGS AND AD HOC ARRANGEMENTS ARE FORMALIZED, PROVIDING LEGAL BASIS FOR USAMRU OPERATIONS, PRIVILEGES AND SUPPORT. IN CONSIDERING DRAFT AGREEMENT, EMBASSY/USAMRU WISH TO NOTE THAT BASIC TEXT OF AGREEMENT WAS ORIGINALLY PROPOSED TO GOM BY USAMRU
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IN 1969 AND HAS BEEN REVIEWED AND AMENDED BY EACH SIDE TWICE

SINCE THAT TIME. CONTINUED NEGOTIATIONS AND FURTHER REVISIONS, WE BELIEVE, WILL BE LENGTHY WHILE CONTRIBUTING COMPARATIVELY LITTLE TO USAMRU'S OPERATIONAL ADVANTAGE. IN ADDITION, TOUGH NEGOTIATIONS AMONG GOM AGENCIES (PARTICULARLY BETWEEN HEALTH MINISTRY AND INSTITUTE OF MEDICAL RESEARCH ON ONE SIDE AND TREASURY ON THE OTHER) INDICATES THAT RENEGOTIATION OF EXEMPTION FROM CUSTOMS, TAXATION AND SIMILAR ARTICLES WOULD LIKELY RESULT IN LESS FAVORABLE TERMS BEING GRANTED TO USAMRU THAN ARE PROVIDED IN CURRENT DRAFT AGREEMENT. EMBASSY/USAMRU ARE CONFIDENT THAT ADOPTION OF THE PROPOSED AGREEMENT WOULD BE BENEFICIAL TO USAMRU'S CONTINUED OPERATIONS IN MALAYSIA, WHILE NOT PRECLUDING FUTURE AMENDMENTS OR SUBSIDIARY UNDERSTANDINGS THAT MIGHT BE ACHIEVED WITH GOM INSTITUTE OF MEDICAL RESEARCH OR HEALTH MINISTRY. THEREFORE, EMBASSY/USAMRU RECOMMEND PROMPT APPROVAL OF DRAFT AGREEMENT (SEPTEL) BY DEPT AND APPROPRIATE AGENCIES WITHOUT CHANGE AND EMBASSY REQUESTS AUTHORITY FOR AMBASSADOR TO SIGN AND EXCHANGE NOTES WITH MINISTER OF HEALTH OR HIS DESIGNATED REPRESENTATIVE.

3. SPECIFIC EMBASSY/USAMRU COMMENTS ON DRAFT ARTICLES ARE AS FOLLOWS:

ARTICLE I - PURPOSE: ARTICLE AS DRAFTED REFLECTS PRESENT UNDERSTANDING WITH GOM REGARDING CONTINUATION OF USAMRU PROGRAM IN MALAYSIA.

ARTICLE II - RESPONSIBLE AGENCIES AND LIAISON: THIS ARTICLE FORMALIZED PRESENT SITUATION WHEREBY EMBASSY HAS OVERALL RESPONSIBILITY FOR USAMRU, BUT DIRECTOR OF INSTITUTE OF MEDICAL RESEARCH (IMR) HAS OPERATIONAL CONTROL IN VIEW OF U.S. ARMY MEDICAL RESEARCH GRANT TO IMR. WE DO NOT BELIEVE THAT THIS PROVISION WOULD REQUIRE EMBASSY TO GIVE MORE ADMINISTRATIVE SUPPORT TO USAMRU THAN IN PAST.

ARTICLE III - FACILITIES: EMBODIES PRESENTLY EXISTING ARRANGEMENTS

ARTICLE IV - PERSONNEL: FORMALIZED PRESENTLY EXISTING PROCEDURES WHILE RELIEVING U.S. PERSONNEL OF LEGAL RESPONSIBILITY FROM ACTS OR OMISSIONS IN PERFORMANCE OF OFFICIAL DUTIES.

ARTICLE V - CUSTOMS DUTIES: THIS PROVISION GIVES DIRECT EXEMPTION TO USAMRU WHICH PREVIOUSLY WAS OBTAINED BY EMBASSY ON USAMRU'S BEHALF BY INFORMAL AGREEMENT WITH MINISTRY OF FOREIGN AFFAIRS. WE BELIEVE THAT CUSTOMS CLEARANCE WILL BE SPEEDED UP UNDER NEW SYSTEM
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AND CUSTOMS STORAGE CHARGES FOR OFFICIAL EQUIPMENT WILL BE REDUCED. PROVISIONS REGARDING HOUSEHOLD EFFECTS AND VEHICLES OF U.S. PERSONNEL OFFER EXEMPTIONS NOT PREVIOUSLY RECEIVED (E.G., PERSONAL VEHICLES HAVE BEEN SUBJECT TO DUTY TOTALLING 72 PERCENT OF VALUE OF CAR TO BE PAID FOR BY OWNER).

ARTICLE VI - INCOME TAX: REFLECTS PRESENT SITUATION IN WHICH U.S. PERSONNEL ARE EXEMPTED BUT LOCALLY-HIRED EMPLOYEES ARE OF COURSE REQUIRED TO PAY LOCAL INCOME TAXES.

ARTICLE VIII - PROJECTS: FORMALIZES EXISTING PROCEDURES.

ARTICLE VIII - FIELDWORK: THIS ARTICLE AS DRAFTED HAS IMPORTANT ADVANTAGE OF PROVIDING FOR UNRESTRICTED ACCESS OF USAMRU STAFF TO LOCALITIES THROUGHOUT MALAYSIA THAT HAS NOT ALWAYS BEEN AVAILABLE IN PAST. CUMBERSOME PROCEDURE OF APPLYING FOR PRIOR APPROVAL FROM GOM FOR FIELDWORK IS ELIMINATED.

ARTICLE IX A IMPORT AND EXPORT OF SPECIMENS: THIS ARTICLE IS VALUABLE BECAUSE IT WILL PERMIT RAPID PROCESSING OF LIVE ANIMALS AND SPECIMENS FOR EXPORT AND IMPORT. LACKING ANY GOVT-TO-GOVT AGREEMENT IN PAST, PROCEDURES FOR IMPORTING/EXPORTING LIVE ANIMALS AND SPECIMENS WERE DIFFICULT AND TIME CONSUMING. THIS ARTICLE ALSO PROVIDES FOR DEFINITE AUTHORITY FOR INCREASED EXPORT TO THE U.S. OF LIVE SPECIMENS IF DESIRED FOR U.S. ARMY MEDICAL RESEARCH.

ARTICLE X - MEDICAL REGISTRATION: THIS PROVISION FORMALIZES EXISTING ARRANGEMENTS BUT WOULD BE HELPFUL IN FUTURE IF ANY RESTRICTIONS ARE PLACED ON REGISTRATION OF FOREIGN NATIONALS TO PRACTICE MEDICINE EVEN WITHOUT COMPENSATION.

ARTICLE XI - REPORTS AND PUBLICATIONS: REFLECTS EXISTING PROCEDURES WHICH ARE CONSISTENT WITH U.S. ARMY DIRECTIVES AND TERMS OF THE U.S. ARMY GRANT TO IMR.

ARTICLE XIII - FORCE MAJEURE: WE BELIEVE THIS ARTICLE PROTECTS USAMRU BECAUSE THE OBLIGATIONS REST PRIMARILY WITH THE MALAYSIAN GOVERNMENT.

ARTICLE XIV - TERMINATION: THIS PROVISION IS ADVANTAGEOUS BECAUSE IT PROVIDES TIME FOR ORDERLY PHASE-OUT OF USAMRU OPERATIONS IF REQUIRED.

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